

ASSEMBLY BILL

No. 1735

**Introduced by Committee on Utilities and Commerce (Levine
(Chair), Baca, Cohn, De La Torre, Jerome Horton, Montanez,
and Ridley-Thomas)**

February 24, 2005

An act to amend Section 2881 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1735, as introduced, Committee on Utilities and Commerce. Telecommunications: telephone corporations: surcharge.

The existing federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. Existing federal law requires that a manufacturer of telecommunications equipment or customer premises equipment ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, as defined, if readily achievable. Existing federal law further requires that a provider of telecommunications services, as defined, ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to design and implement programs under which telephone corporations provide access to the telecommunications system for subscribers who are deaf, hearing

impaired, or disabled, including programs to provide specialized or supplemental telephone communications equipment. The commission is required, until January 1, 2006, to establish a rate recovery mechanism through a surcharge, not to exceed $\frac{1}{2}\%$ on interstate service, to allow providers of the equipment and services to recover their costs. Existing law authorizes the commission, until January 1, 2006, to adjust the surcharge upward or downward within the specified $\frac{1}{2}\%$ cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.

This bill would extend, until January 1, 2010, the authority of the commission to establish a rate recovery mechanism through a surcharge and to adjust the surcharge upward or downward within the specified $\frac{1}{2}\%$ cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2881 of the Public Utilities Code is
2 amended to read:

3 2881. (a) The commission shall design and implement a
4 program to provide a telecommunications device capable of
5 serving the needs of individuals who are deaf or hearing
6 impaired, together with a single party line, at no charge
7 additional to the basic exchange rate, to any subscriber who is
8 certified as an individual who is deaf or hearing impaired by a
9 licensed physician and surgeon, audiologist, or a qualified state
10 or federal agency, as determined by the commission, and to any
11 subscriber that is an organization representing individuals who
12 are deaf or hearing impaired, as determined and specified by the
13 commission pursuant to subdivision (e). A licensed hearing aid
14 dispenser may certify the need of an individual to participate in
15 the program if that individual has been previously fitted with an
16 amplified device by the dispenser and the dispenser has the
17 individual's hearing records on file prior to certification.

18 (b) The commission shall also design and implement a
19 program to provide a dual-party relay system, using third-party
20 intervention to connect individuals who are deaf or hearing
21 impaired and offices of organizations representing individuals

1 who are deaf or hearing impaired, as determined and specified by
2 the commission pursuant to subdivision (e), with persons of
3 normal hearing by way of intercommunications devices for
4 individuals who are deaf or hearing impaired and the telephone
5 system, making available reasonable access of all phases of
6 public telephone service to telephone subscribers who are deaf or
7 hearing impaired. In order to make a dual-party relay system that
8 will meet the requirements of individuals who are deaf or hearing
9 impaired available at a reasonable cost, the commission shall
10 initiate an investigation, conduct public hearings to determine the
11 most cost-effective method of providing dual-party relay service
12 to the deaf or hearing impaired when using a telecommunications
13 device, and solicit the advice, counsel, and physical assistance of
14 statewide nonprofit consumer organizations of the deaf, during
15 the development and implementation of the system. The
16 commission shall phase in this program, on a geographical basis,
17 over a three-year period ending on January 1, 1987. The
18 commission shall apply for certification of this program under
19 rules adopted by the Federal Communications Commission
20 pursuant to Section 401 of the federal Americans with
21 Disabilities Act of 1990 (Public Law 101-336).

22 (c) The commission shall also design and implement a
23 program whereby specialized or supplemental telephone
24 communications equipment may be provided to subscribers who
25 are certified to be disabled at no charge additional to the basic
26 exchange rate. The certification, including a statement of visual
27 or medical need for specialized telecommunications equipment,
28 shall be provided by a licensed optometrist or physician and
29 surgeon, acting within the scope of practice of his or her license,
30 or by a qualified state or federal agency as determined by the
31 commission. The commission shall, in this connection, study the
32 feasibility of, and implement, if determined to be feasible,
33 personal income criteria, in addition to the certification of
34 disability, for determining a subscriber's eligibility under this
35 subdivision.

36 (d) The commission shall establish a rate recovery mechanism
37 through a surcharge not to exceed one-half of 1 percent
38 uniformly applied to a subscriber's intrastate telephone service,
39 other than one-way radio paging service and universal telephone
40 service, both within a service area and between service areas, to

1 allow providers of the equipment and service specified in
2 subdivisions (a), (b), and (c), to recover costs as they are incurred
3 under this section. The surcharge shall be in effect until January
4 1, ~~2006~~ 2010. The commission shall require that the programs
5 implemented under this section be identified on subscribers'
6 bills, and shall establish a fund and require separate accounting
7 for each of the programs implemented under this section.

8 (e) The commission shall determine and specify those
9 statewide organizations representing the deaf or hearing impaired
10 that shall receive a telecommunications device pursuant to
11 subdivision (a) or a dual-party relay system pursuant to
12 subdivision (b), or both, and in which offices the equipment shall
13 be installed in the case of an organization having more than one
14 office.

15 (f) The commission may direct any telephone corporation
16 subject to its jurisdiction to comply with its determinations and
17 specifications pursuant to this section.

18 (g) The commission shall annually review the surcharge level
19 and the balances in the funds established pursuant to subdivision
20 (d). Until January 1, ~~2006~~ 2010, the commission shall be
21 authorized to make, within the limits set by subdivision (d), any
22 necessary adjustments to the surcharge to ensure that the
23 programs supported thereby are adequately funded and that the
24 fund balances are not excessive. A fund balance which is
25 projected to exceed six months' worth of projected expenses at
26 the end of the fiscal year is excessive.

27 (h) The commission shall prepare and submit to the
28 Legislature, on or before December 31, 1988, and annually
29 thereafter, a report on the fiscal status of the programs
30 established and funded pursuant to this section and Sections
31 2881.1 and 2881.2. The report shall include a statement of the
32 surcharge level established pursuant to subdivision (d) and
33 revenues produced by the surcharge, an accounting of program
34 expenses, and an evaluation of options for controlling those
35 expenses and increasing program efficiency, including, but not
36 limited to, all of the following proposals:

37 (1) The establishment of a means test for persons to qualify for
38 program equipment or free or reduced charges for the use of
39 telecommunication services.

1 (2) If and to the extent not prohibited under Section 401 of the
2 federal Americans with Disabilities Act of 1990 (Public Law
3 101-336), the imposition of limits or other restrictions on
4 maximum usage levels for the relay service, which shall include
5 the development of a program to provide basic communications
6 requirements to all relay users at discounted rates, including
7 discounted toll-call rates, and, for usage in excess of those basic
8 requirements, at rates which recover the full costs of service.

9 (3) More efficient means for obtaining and distributing
10 equipment to qualified subscribers.

11 (4) The establishment of quality standards for increasing the
12 efficiency of the relay system.

13 (i) In order to continue to meet the access needs of individuals
14 with functional limitations of hearing, vision, movement,
15 manipulation, speech and interpretation of information, the
16 commission shall perform ongoing assessment of, and if
17 appropriate, expand the scope of the program to allow for
18 additional access capability consistent with evolving
19 telecommunications technology.

20 (j) *The commission shall structure the programs required by*
21 *this section so that any charge imposed to promote the goals of*
22 *universal service reasonably equals the value of the benefits of*
23 *universal service to contributing entities and their subscribers.*